(a) that the notice referred to under sub-section (2) of section 5 of the Ordinance as required to be posted be shortened, and

(b) that the period during which the applicant is required to attend and receive instruction in law be shortened.

Both the Bar Council and the Local Bar Committee of Selangor, Negri Sembilan and Kelantan are opposed to the making of the orders prayed.

The applicant was called to the Bar in absentia on the 23rd of June 1953. Prior to his call, he read in the Chambers of Mr. Jayaswal (of Malacca) for a few days over nine months. From the 10th of March to the 10th of May in 1953 he acted as Circuit Magistrate in Province Wellesley, and since then he has been acting as the Senior Assistant Registrar, Supreme Court, Kuala Lumpur.

The special grounds for shortening the period during which notices are required to be posted are :—

"(i) I have read in the Chambers of a practising barrister of 7 years standing from 19th May 1952 to 28th February 1953 and further served as Circuit Magistrate, Province Wellesley from 10th March to 10th May 1953 and subsequently as Acting Senior Assistant Registrar, Supreme Court, Kuala Lumpur.

(ii) I am fifty-three years old, an age at which the prospect of retirement looms in the offing to the general run of people. Whereas, in my particular case I am just about to launch into the profession in a state of health which is none too robust or re-assuring."

One of the purposes of the Ordinance is to ensure that only those persons are admitted to practice the law in the Federation who, in addition to the necessary academic qualifications, have practical experience to fit them to deal with any kind of legal work with which a practitioner in the Federation may be called upon to deal. The Ordinance requires that a petitioner for admission shall attend and receive instruction in the office of a practitioner of not less than 7 years standing, for a period the length of which depends on whether he has "read in Chambers" for a period of six months or longer. Under section 5(5) this prescribed period can be shortened or dispensed with in the discretion of the Court, if special grounds are shown to exist. Only one special ground is specifically referred to in the section which reads :—

".....one of which may be that the petitioner has been engaged in any part of His Majesty's Dominions .....or as an Advocate and Solicitor in the Colony."

Assuming for the moment that acting as a Magistrate and as a Senior Assistant Registrar constitutes "engaging in the actual practice of his profession", I do not consider that a few months of acting in these posts are sufficient in themselves to justify the exercise of the discretion under section 5(5) of the Ordinance on the ground of practice.

In *Re Ramaswami*[1] the period of instruction was shortened, because the petitioner had 19 years of experience in the Judicial Department, the last four of them as Senior Assistant Registrar. It is reasonable to assume that wide experience of this kind plus 3 months instruction would enable a person to satisfy a Board appointed under section 7 of the Ordinance.

I do not consider that nine months instruction prior to call to the Bar plus a few months service in the Judicial Department is a sufficient ground for shortening the period of instruction, in the absence of special circumstances such as were to be found in *Re Ahmad bin Mohamed Ibrahim*[2], in particular the interruption of instruction occasioned by the war, the further period of instruction after the war, and the very considerable period spent in performing judicial functions.

There must be more than one ground for exercising discretion under section 5(5), and the other ground put forward is impending retirement and poor health. I can appreciate the desire of the applicant to be admitted without delay, but the possibility that the applicant may only enjoy a few years of practice after admission does not in itself justify an exercise of the Court's discretion. There must be substantial reasons before the Court for the exercise of its discretion under section 5(5), and in my view these are absent.

It will be inconvenient for the applicant if I make no order on this motion. Taking into consideration that he has already received nine months instruction prior to call to the Bar I think it proper that he should undergo further instruction for a period of three months and I so order.

Order accordingly.

P. P. V. P. L. MEENATCHI (w)
v.
LALL SINGH & ORS

[C. A. (Brown, Ag. C.J., Mathew, C.J. (F.M.) and Buttrose, J.) October 14, 1953]

[Singapore — Civil Appeal No. 14 of 1953]

Hindu Law — Joint Family — "Karta" or the Managing member — Female member of family can become "Karta".

This was an appeal from the order of Whitton, J. on a Summons dismissing the appellant's application to amend her writ upon the ground that being a woman she does not possess the legal capacity in which she now seeks to carry the action, Suit No. 300 of 1952 (see report at p. 171 ante).

Held: a female member of a Hindu Joint Family, though not a co-parcener in the family, is in the absence of an adult male member competent to act as "Karta" and there is no reason why she should become incompetent so to act when the male member becomes of age.

Judgment of Whitton, J. reported in (1953). M.L.J. 171 reversed.

Cases referred to :—

(1) *Income-Tax Commissioner v. Laxmi Harayan* A.I.R. (1949) Nag. 128.

(2) *Firm of K. M. R. R. M. v. Firm of M. R. M. V. L.* (1926) A.C. 761.

CIVIL APPEAL.

K. E. Hilborne for the appellant.

J. Pillai for the 1st respondent.

K. E. W. Hatchard for the 2nd, 3rd and 4th respondents.

Cur Adv. Vult.

Brown, Ag. C.J. : — The appellant, who is the plaintiff in Suit 300 of 1952, took out a summons to amend the endorsement to the writ so as to express her claim to be in her capacity as "Karta" or the Managing Member of the Hindu Joint Family of P. P. V. P. L. The summons was supported by an affidavit of her attorney stating that the business of the Hindu Joint Family or P. P. V. P. L. had been erroneously registered as a sole proprietorship, but that the mistake had now been rectified by describing in the Register the constitution of the business as a Hindu Joint Family, and describing the appellant as "Karta". The rectification of the Register was made on the 20th March, 1953: and the summons was taken out on 21st April, 1953. No defence was filed by the 1st defendant. But the 2nd, 3rd and 4th defendants filed their defence on the 24th May, 1952, and in paragraph 5 they alleged that "the plaintiff is in fact only the managing member of the family of P. P. V. P. L. and carries on business as such". No doubt in consequence of this point having been brought to the notice of the appellant's legal advisers the rectification of the Register and the application to amend the writ followed.

Although no defence had been filed by the first defendant, he appeared by counsel on the summons and took the point that as the plaintiff was a female she could not be the "Karta" of a Hindu Joint Family. In this he was supported by counsel for the 2nd, 3rd and 4th defendants, notwithstanding paragraph 5 of their defence. Counsel for the plaintiff was unable to produce any authority to show that a woman can be a "Karta", and in the text-books to which the learned Judge was referred (which were early editions) there was much to suggest that she could not. He took the view (rightly, in my opinion) that "it was for the plaintiff to show that she possesses the legal capacity in which she now seeks to carry on this action," and he dismissed her application.

Mr. Hilborne, on behalf of the appellant, has now referred us to the recent decision of the Nagpur High Court in the case of *Income-Tax Commissioner v. Laxmi Harayan*[1], from which it is clear that it has now been judicially decided that a woman can be a "Karta" — a view which appears to me to be consistent with modern ideas and the needs of modern society. The case is referred to in the recent edition of *Mulla* (the 11th edition, published in 1952) in the following passage :—

> "It has been held by the Nagpur High Court that a mother, though not a co-parcener in the joint family, is in the absence of adult male members competent to act as manager of the family."

If this passage is intended to mean, as counsel for the respondents contend, that a woman can only act as "Karta" so long as the male members of the family are minors, and that she must cease to act immediately upon the eldest boy coming of age, I do not think the Nagpur decision supports it. There is no evidence before us regarding the appellant's children, but we have been informed that there are three sons, who were minors when the appellant's husband died in 1929 but were of full age when the transaction which is the subject of this suit was made. It is clear from the Nagpur decision that the appellant was competent to act as "Karta" during the minority of her sons, and I see no reason why she should become incompetent so to act when her sons became of age.

Mr. Pillai, on behalf of the 1st respondent, further contends that as the writ was issued in the plaintiff's personal capacity the proper course was not to amend the endorsement to the writ but to start a fresh action. He sought to compare this case with that of a plaintiff who sues in his personal capacity and later registers his business as a partnership. I do not think that the comparison is correct. The writ is in the name of P. P. V. P. L. Meenatchi Achi (widow). In the case of the *Firm of K. M. R. R. M. v. Firm of M. R. M. V. L.*[2] Barrett-Leonard, J. pointed out that when a local representative of a Chettiar firm carried on the business under the vellasam (i.e. the letters) of the firm coupled with his own distinct name, the announcement to the external world in general is that, whether co-partner with, or a mere agent of, other persons, he is to be lookd upon as a principal. I do not think that this writ was issued by the appellant in her personal capacity. It was issued by her as the local representative of her business; and I think that the vellasam shews that. By the vellasam coupled with her own name the writ, as it stands, describes her as the representative of the business of which she was erroneously described in the Register as the sole proprietor. She is now asking to amend the writ by substituting a correct description of the representative capacity in which she sues in place of an incorrect description.

With regard to the procedural point raised by Mr. Hatchard that in our procedure no rule exists which would enable the plaintiff to sue as "Karta", it seems to me that, it being now established that she is competent in law to represent the family as "Karta", Order 16 r. 9 applies, since the members of the family have the same interest as the plaintiff who represents the family. The fact that the plaintiff is not a beneficial owner of the family assets does not seem to me to affect the matter. She is not representing the members of her family as individuals. The assets belong to the joint family, not to the individual members of it. If judgment is given in the plaintiff's favour it is a judgment in favour of the family, and no individual member of it could thereafter sue in respect of this claim. He could not sue as an individual because the debt is due to the family. He could not sue as "Karta", if the family has been properly represented by the plaintiff as "Karta" and obtained judgment.

But Mr. Hatchard further argued that there is insufficient evidence that the plaintiff is in fact the "Karta" of the joint family. It seems to me that that is a matter which must be left to the trial. We are not concerned with the evidence at this stage. This is an appeal from the learned Judge's order on a summons dismissing the plaintiff's application to amend her writ upon the ground that being a woman she does not possess the legal capacity in which she now seeks to carry on the action. It is clear, in the light of the Nagpur decision to which he was not referred, that his order was wrong. I think that our decision in this appeal must be confined to that.

In my opinion this appeal must be allowed, with costs here and below, and the plaintiff's application to amend the endorsement of the writ in the terms of the summons must be granted.

Mathew, C.J. (F.M.) : — I have had the advantage of reading the judgment of the learned President with which I entirely agree. I have no doubt that had the learned trial Judge had before him the authorities which were not available to him when the application was considered he would have come to the same conclusion.

I would allow this appeal with costs here and below and agree with the proposed order by the learned President.

Buttrose, J. agreed with the judgment of the learned President.

Appeal allowed.

ANTHINARAYANA MUDALIAR
v.
AJIT SINGH.

[O. C. J. (Spenser Wilkinson, J.) January 5, 1953]

[Penang — Civil Suit No. 162 of 1951]

International Law — Procedure — Conflict of laws — Foreign judgment — Irregularity.

A judgment or decree pronounced by the Court of a foreign country will be treated and acted upon here as final, notwithstanding any irregularity of procedure under the local law, provided the foreign Court had jurisdiction over the subject matter and the person brought before it, and the proceedings do not offend against natural justice.

Cases referred to :—

(1) *Robinson v. Fenner* (1913) 3 K.B. 835.
(2) *Emanuel v. Symon* (1908) 1 K.B. 302.
(3) *Pemberton v. Hughes* (1899) 1 Ch. 781.
(4) *Jeannot v. Puerst* 25 T.L.R. 424.

CIVIL SUIT — claim on a foreign judgment.

R. D. Hume for the plaintiff.

Ong Huck Lim for the defendant.

The facts and arguments appear sufficiently from the judgment.

Cur. Adv, Vult.

Spenser Wilkinson, J. [After stating the facts which are not relevant for the purpose of this report His Lordship proceeded] : — The only question of real difficulty in this case was the question of the service of the proceedings on the defendant. There is no doubt that he had notice of the Indian proceedings, but his contention was that as he was served with a summons showing a return date that had already passed at the time of the service there was no sufficient service upon him. The facts as to service were that the summons together with the plaint were served on the defendant on the 22nd August, 1950 in Penang. The copy of the summons so served directed the defendant to attend and answer the claim on the 17th August, 1950. On that date the case came on for hearing before the Court in Madras but the defendant being absent the hearing was adjourned to the 19th December, 1950 and a notice to this effect was inserted in a Madras newspaper. When the case came on for hearing again on the 19th December, 1950 judgment was given *ex parte* after the hearing of evidence for the plaintiff.

In support of his contention that this service was insufficient so as to render the judgment contrary to natural justice Mr. Ong Huck Lim cited Rule 79 in *Dicey's Conflict of Laws* (6th edition at page 396) and